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CHRISTINA L. GOE
General Counsel
Office of the Commissioner of
Securities & Insurance
840 Helena Avenue
Helena, MT 59601
(406) 444-2040

Attorney for the Insurance Department

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA**

IN THE MATTER OF:) Case No.: INS-2009-98
)
Safeco Insurance Company of Illinois,) CONSENT AGREEMENT AND
NAIC #111-39012,) FINAL ORDER
)
Respondent.)

This Consent Agreement and Final Order (Agreement) is entered into by the Insurance Department of the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.* and Safeco Insurance Company of Illinois, a member of the Liberty Mutual Group, an insurance company with a principal place of business in Seattle, Washington (Respondent). The CSI hereby makes the following allegations which justify and support disciplinary treatment:

FACT ASSERTIONS

1. Respondent Safeco Insurance Company of Illinois is a Montana-licensed insurer holding a certificate of authority issued by the Commissioner.

2. Safeco Insurance Company of Illinois is part of the Liberty Mutual Group of Companies.
3. Respondent transacted property and casualty insurance in Montana.
4. Respondent began utilizing an insurance scoring model that contained credit called the Risk Quality Index (RQI) on July 26, 2007, for new private passenger automobile business and on September 14, 2007, for renewal private passenger automobile business.
5. The RQI is utilized to determine commission on the policy and to determine coverage limits in order to limit exposure on policies written.
6. The RQI is not utilized to determine rates for the private passenger automobile program. It is utilized to underwrite risks because the amount of coverage limits offered to policyholders is determined from the RQI score.
7. The RQI is used to determine rates for the classic car and RV programs.
8. The CSI actuary discovered the use of this insurance scoring model during a routine rate review sometime in 2009.
9. The RQI had never been filed with the CSI. The Respondent used this insurance scoring model to underwrite risks for approximately two years before filing the RQI with the CSI.
10. The CSI requested that Respondent file the model, and it was filed on July 10, 2009.
11. The model contained at least one violation of Montana law. Individuals who had no need for insurance were being penalized for having no prior insurance and the Respondent did not have the required evidence on file, proving that the individual had operated a motor vehicle

in violation of a state's mandatory auto insurance law. The exact number of individuals affected by this violation is unknown.

12. Respondent made the corrections to the RQI requested by the CSI actuary.

CONCLUSIONS OF LAW

1. The Montana State Auditor is the Commissioner of Insurance pursuant to Mont. Code Ann. § 2-15-1903.

2. The Montana Insurance Department is under the control and supervision of the Commissioner of Insurance pursuant to Mont. Code Ann. §§ 2-15-1902 and 33-1-301.

3. The Commissioner of Insurance shall administer the Department to protect insurance consumers pursuant to Mont. Code Ann. § 33-1-311.

4. Pursuant to Mont. Code Ann. § 33-1-102, a person or entity may not transact the business of insurance in Montana relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of the Montana Insurance Code.

5. Pursuant to Mont. Code Ann. § 33-18-609, insurers that use insurance scores to underwrite and rate risks shall file their scoring models or other scoring processes with the commissioner.

6. Pursuant to A.R.M. 6.6.3304, an insurer cannot penalize an insured for having no prior insurance unless that insurer can demonstrate that it has in its possession, "evidence sufficient to demonstrate that the insured operated a motor vehicle in violation of a state's mandatory auto insurance law."

7. Pursuant to Mont. Code Ann. § 33-1-317, the Insurance Commissioner may impose an administrative fine of up to \$25,000 per each violation of the Montana Insurance Code or any administrative fine.

STIPULATIONS AND AGREEMENT

The Respondent hereby stipulates and agrees to the following:

1. Respondent Safeco is an insurer that holds a certificate of authority issued by the Commissioner and Department to transact the business of insurance in Montana.
2. The Commissioner and the Department have jurisdiction over the subject matter of the above entitled proceeding.
3. The Respondent acknowledges that its authorized representative signing this Consent Agreement has read and understands each term of this Consent Agreement and Final Order. The Respondent acknowledges that it enters into this Consent Agreement voluntarily and without reservation.
4. The Respondent acknowledges that this Consent Agreement constitutes the entire agreement between the parties and that no other promises or agreements, either express or implied, have been made by the Department to induce Respondent to enter into this Consent Agreement.
5. The CSI and the Respondent hereby agree to settle this matter pursuant to the following terms and conditions:
 - A. Within ten days from the execution of this Agreement, the Respondent shall pay a \$25,000.00 fine to the state of Montana. The fine should be made payable to "Montana State Auditor" and sent to the CSI, c/o Christina L. Goe, General Counsel, 840 Helena Avenue, Helena, MT 59601.
 - B. Respondent shall no longer use an insurance scoring model in Montana in violation of Mont. Code Ann. § 33-18-609.

C. Respondent agrees to comply with the terms and conditions of this Agreement, the Insurance Code and all other regulations of the state of Montana.

D. Respondent further understands that, upon the signing of the Final Order by the Commissioner or her representative, this Agreement will be an order of the Commissioner and failure to comply with the same may constitute separate violations of the Montana Insurance Code, pursuant to Mont. Code Ann. § 33-1-318, and/or other applicable statutes or rules, and may result in subsequent legal action by the CSI.

E. Respondent understands that the Agreement is a public record under Montana law and, as such, may not be sealed or otherwise withheld from the public.

F. Respondent understands that this Consent Agreement is not effective until such time as the Final Order is signed.

G. Respondent fully and forever releases and discharges the CSI, the elected Commissioner and all CSI employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries that may arise from the allegations underlying this Agreement, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the action.

H. Respondent specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-101, *et seq.*, and elects to resolve this matter on the terms and conditions set forth herein;

I. Under authority of the Insurance Code, the CSI hereby agrees that it will not initiate any civil or administrative action against Respondent regarding the allegations contained in this action.

J. This Consent Agreement shall be incorporated and made a part of the attached Final Order issued by the Commissioner herein.

DATED this 16th day of November, 2010

MONTANA INSURANCE DEPARTMENT

By: _____

CHRISTINA L. GOE
GENERAL COUNSEL

DATED this 17 day of November, 2010.

SAFECO INSURANCE COMPANY OF ILLINOIS

By: _____

Patty McCollum
Title: ASSISTANT VICE PRESIDENT

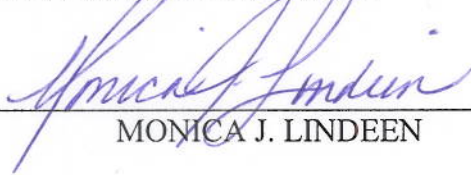
FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 33-1-101, *et seq.*,
and upon review of the foregoing Consent Agreement and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and
the Respondent Safeco Insurance Company of Illinois is adopted as if set forth fully herein.

DATED this 19th day of November, 2010.

COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR



MONICA J. LINDEEN

cc. Christina L. Goe
Safeco Insurance Company of Illinois